

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:19-CR-024-PLR-HBG-1
)	
WILLIAM H. FORTSON,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court as may be appropriate. This case came before the Court on March 11, 2020, for a motion hearing on defense counsel's Motion to Substitute Attorney [Doc. 24], filed on February 27, 2020. Assistant United States Attorney Brent Jones represented the Government. Assistant Federal Defender Benjamin Sharp and the Federal Defender Services of Eastern Tennessee ("FDSET") appeared on behalf of Defendant, who was also present. Attorney Michael McGovern was also present.

In his Motion to Substitute Attorney [Doc. 24], Assistant Federal Defender Sharp states that Defendant has requested that substitute counsel be appointed. During the motion hearing, Assistant Federal Defender Sharp detailed that Defendant has previously filed a complaint against him with the Board of Professional Responsibility, and it was his opinion that the attorney-client relationship was irretrievably broken. The Government stated that it does not object the pending motion.

Based upon the representations of Assistant Federal Defender Sharp and Defendant during the hearing, the Court finds that the trust necessary for the attorney-client relationship is irretrievably broken and the ability to communicate is significantly eroded, although the Court finds no fault on the part of Assistant Federal Defender Sharp for this situation. Accordingly, the Court finds that

good cause exists to grant the request for substitution of counsel. *See Wilson v. Mintzes*, 761 F.2d 275, 280 (6th Cir. 1985) (holding that a defendant seeking to substitute counsel must show good cause).

Therefore, Defendant's Motion to Substitute Attorney [Doc. 24] is **GRANTED**, and Assistant Federal Defender Sharp and the FDSET are **RELIEVED** as counsel of record for Defendant. At the end of the hearing, Attorney McGovern agreed to accept representation of the Defendant if the present motion was granted. The Court therefore and hereby **SUBSTITUTES and APPOINTS** Attorney McGovern under the Criminal Justice Act, 18 U.S.C. § 3006A, as counsel of record for Defendant. Assistant Federal Defender Sharp and the FDSET are **DIRECTED** to turn over all discovery and the Defendant's file to Attorney McGovern.

Defendant has also previously filed a pro se Motion to Withdraw Plea of Guilty [Doc. 23], on February 20, 2020. The Court finds that the Defendant's pro se motion violates Local Rule 83.4(c), which prohibits a party from filing motions in his or her own behalf while the party is represented by counsel. *See* E.D. L.R. 83.4(c). Accordingly, Defendant's pro se motion to Withdraw Plea of Guilty [Doc. 23] is **DENIED WITHOUT PREJUDICE**. Attorney McGovern is **INSTRUCTED** to review Defendant's motion and refile it on Defendant's behalf if Defendant intends to proceed with the withdrawal of his guilty plea.

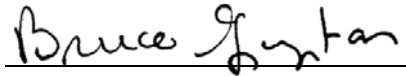
Accordingly, it is **ORDERED**:

- (1) Defendant's Motion to Substitute Attorney [Doc. 24] is **GRANTED**;
- (2) Assistant Federal Defender Sharp and the FDSET are **RELIEVED** of further representation of Defendant and are **DIRECTED** to provide new defense counsel with the discovery and information from Defendant's file as soon as possible;
- (3) Attorney Michael McGovern is **SUBSTITUTED and APPOINTED** as counsel of record for the Defendant pursuant to the CJA; and

(4) Defendant's pro se motion to Withdraw Plea of Guilty [**Doc. 23**] is **DENIED WITHOUT PREJUDICE**. Attorney McGovern is **INSTRUCTED** to review Defendant's motion and refile it on Defendant's behalf if Defendant intends to proceed with the withdrawal of his guilty plea.

IT IS SO ORDERED

ENTER:

A handwritten signature in black ink, appearing to read "Bruce G. Luntan", is written over a horizontal line.

United States Magistrate Judge